



Town of Halifax Commonwealth of Massachusetts

Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

HALIFAX ZONING BOARD OF APPEALS MONDAY, JULY 10, 2006

The Halifax Zoning Board of Appeals held its regular monthly meeting on Monday, July 10, 2006 in Meeting Room #1 of the Town Hall with the following Board members in attendance:

Debra Tinkham, Jean Reilly, Kozhaya Nessralla, Garrett Walsh, Robert Gaynor and Richard Gilcoine.

Michael Schleiff was not in attendance.

Chairman Tinkham called the meeting to order at 7:02 p.m.

APPROVAL OF MINUTES:

It was duly moved (K. Nessralla) and seconded (R. Gilcoine) to approve the minutes of Monday, June 12, 2006.

Chairman Tinkham: All those in favor of approving the minutes of June 12, 2006, please signify by saying aye. So VOTED 5-0-0

BILLS

A. Memorial Press Group - \$165.00

The Board reviewed the mail and discussed other matter issues;

Mail

- A. Gerald Co-Wallis – Letter concerning #666 - 6 Standish Street, Halifax, MA
- B. Cathleen Drinan – BOH Agent – Letter concerning #669 - 26 Hillside Avenue, Halifax, MA
- C. Edward Giampietro – Letter concerning #671 - 85 Summit Street, Halifax, MA

Other Matters:

- A. Reorganization of the Board of Assessors
- B. Charlie – CPTC Workshops for Fall 2006
- C. OCPC Agenda
- D. Charlie – Highway Department Name Ceremony

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#666 – PETER GAMACHE – 6 STANDISH STREET, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on June 12, 2006 at 7:15 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Peter Gamache, 10 B Beals Cove Rd, Hingham, MA to raze & rebuild a home at 6 Standish St, Halifax, MA. Said property is owned by James & Marguerita Fitzgibbons, 29 Governor Long Rd, Hingham, MA as shown on Assessor's Map #19, Lots 1443-1446. The applicant seeks a special permit to continue and extend a non-conforming use and make alterations to the structure that exceeds 50% of the value in accordance with the Zoning By-laws of the Town of Halifax under Section 167-8 Non-Conforming Uses, page 16726.8. Area is zoned residential. Petition #666

The secretary told the Board that she had spoken with the Tax Collector, Beverly Pratt. Mrs. Pratt said that Mr. Gamache has now paid his 2006 taxes.

Tinkham: Do you have a new set of plans for us.

Mr. Jack Gamache presented the Board with a new set of plans.

The Board reviewed the revised plans. The farmer's porch across the front of the home has been removed and the upstairs living space has been somewhat altered. The master bedroom has been put towards the rear of the home and the open area near the stairs has been divided by a hand rail.

Gaynor: What is the foundation that is there now?

J Gamache: A block foundation.

Gaynor: Are you putting in a full foundation? What are you putting in?

J Gamache: No. It will be a crawl space and will be about a 6 inches above the septic system.

The Board reviewed the plans and the location of the septic system.

Chairman Tinkham read a letter into the record from Mr. Gerald Co-Wallis (see file) regarding 6 Standish Street. Mr. Co-Wallis is not in favor of the project.

Mr. Co-Wallis had several concerns regarding the property. Chairman Tinkham reviewed all of the concerns with Mr. Co-Wallis and explained to him the nature of the petition.

Chairman Tinkham addressed all of Mr. Co-Wallis' concerns and Mr. Co-Wallis had a better understanding of what was going on. He also told the Board that he had discussed these concerns with the building inspector, Tom Millias and received answers from him.

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Mr. Co-Wallis was concerned that the building was going to be in the wetlands. The Board explained to Mr. Co-Wallis that the building is basically staying in the same footprint and will be squared off. It is not getting any closer to the wetlands or encroaching any further onto the lot lines.

Mr. Gaynor reiterated to Mr. Co-Wallis that what was presented must be built and that after the foundation is put in, that the engineer will do an as-built plan which the building inspector will check. He also stated that if Mr. Gamache did not build what was proposed that the Town could make him comply by instituting fines, etc.

The Board continued to review the plans. The existing house is falling apart and the new home will be an improvement to the neighborhood.

It was duly moved (J. Reilly) and seconded (R. Gilcoine) to grant your petition (#666) for a special permit to continue and extend a non-conforming use and make alterations to the structure that exceed 50% of the value in order to raze and rebuild a two-story home. The proposed home is to be located at 6 Standish Street, Halifax, MA as shown on assessor's map 19, lots 1443-1446.

The Zoning Board of Appeals granted this petition due to the fact that this new home will not be detrimental to the neighborhood. Due to the age of the home, the fact that it is in a neighborhood of other pre-existing non-conforming homes, and will not encroach any further on to the lot lines, the Board felt that the new home would not derogate from the intent of the bylaw.

The Zoning Board of Appeals grants this petition with the following conditions:

1. The special permit was granted based on the plans and testimony presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances and special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (7/18/06) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

Chairman Tinkham called for a voice vote: J. Reilly, YES; K. Nessralla, YES; R. Gaynor, YES; R. Gilcoine, YES; and D. Tinkham, YES.

The motion to grant petition #666 passed 5-0-0

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Ms. Tinkham reprised Mr. Gamache of the procedure following approval of the petition.

#667 – BRIAN FITZGERALD – 940 PLYMOUTH STREET, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on June 12, 2006 at 7:30 pm in Meeting Room 1, Town Hall, 499 Plymouth St, Halifax, MA on the application by Brian Fitzgerald - Clare Island Motor Cars, 610 South Franklin St, Apt D-204, Holbrook, MA to amend his original special permit #610 in order to allow for the outside sale of five (5) motor vehicles at 940 Plymouth St, Halifax, MA. Said property is owned by V. Richard Greeley, PO Box 494, Halifax, MA as shown on the Assessor's Map #58, Lot #3E. The applicant seeks a special permit to provide retail sales for motor vehicles in an industrial zone in accordance with the Zoning By-laws of the Town of Halifax under Section 167-7 Commercial Uses, page 16726. Area is zoned industrial. Petition #667

Ms. Traynor spoke with Mr. Fitzgerald and informed him that Mr. Greeley would not be meeting with the Planning Board until July 20, 2006. Mr. Fitzgerald requested that his hearing be continued until the August meeting.

The hearing was continued until August 14, 2006 at 7:15 pm.

#669 – KATHERINE BARTUCCA/MADELINE REED – 26 HILLSIDE AVENUE, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on June 12, 2006 at 8:00 pm in Meeting Room 1, Town Hall, 499 Plymouth St, Halifax, MA on the application by Katherine Bartucca, 57 Jacap Dr, N Attleboro to raze and rebuild a home at 26 Hillside Ave, Halifax, MA. Said property is currently owned by Madeline Reed, 57 Jacap Dr, N. Attleboro as shown on Assessor's Map #51, Lot #62. The applicant seeks a variance of the front set back from fifty (50) feet to nine-tenths (0.9) of a foot, a variance of the right side set back from thirty (30) feet to eight (8) feet, a variance of the left side set back from thirty (30) feet to three (3) feet, a variance to vary the lot coverage, and a special permit to continue and extend a non-conforming use in accordance with the Zoning By-laws of the Town of Halifax under Section(s) 167-11 Table of Dimensional and Density Regulations and 167-8 Non-Conforming Uses, page(s) 16726.11 & 16726.7. Area is zoned residential. Petition #669

Chairman Tinkham read a letter from Cathleen Drinan, the Board of Health Agent into the record (see file). The letter stated that the layout of the proposed home looked like it had four bedrooms and the septic system could only have three. The Agent also stated that the applicant had not asked the Board for any variances of the septic system.

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Chairman Tinkham spoke to Ms. Bartucca. At the on-site Ms. Bartucca stated that she was going to scrap the project. Ms. Tinkham asked her what she would like to do.

Ms. Bartucca was upset that so many of the abutters were opposed to the project. She went on to tell the Board that the house was a 3 bedroom home and proceeded to show the Board some pictures of the proposed project.

The Board reviewed the pictures and the letter from the Board of Health. They explained to Ms. Bartucca that the number of bedrooms was not a Zoning Board of Appeals issue but a Board of Health issue.

Ms. Bartucca was not sure if she wanted to have the project denied by the Board or if she should withdraw without prejudice. She would like to come back before the Board with a different plan or she may decide to just fix up the current house.

It was explained to Ms. Bartucca that if the Board denied the petition and she received a denial letter that she would not be able to come back before the Board for 2 years. It was also explained that if she felt the new plans had substantial changes from what was originally presented that she could go in front of the Planning Board. If the Planning Board felt the changes were substantial they vote to recommend that she go before the ZBA within the 2 year period.

Ms. Bartucca was not sure what to do.

It was then explained to her that if she would like to withdraw her petition without prejudice that she could come back before the Board at anytime.

Ms. Bartucca decided to withdraw her petition without prejudice. She proceeded to write a letter of withdrawal and submitted it to the Board.

Ms. Bartucca then asked the Board who she could talk to regarding several violations in her neighborhood. She was told that she should speak with the Building Inspector, Tom Millias, concerning zoning violations.

After Ms. Bartucca left the meeting there was quite a bit of commotion in the hallway between Ms. Bartucca and the abutters. Chairman Tinkham and Vice-Chairman Gaynor had to leave the meeting and ask everyone to stop. The group broke up and left the building after awhile.

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Member, Richard Gilcoine recused himself from petition #670 due to the fact that he owns property in the area.

#670 – MICHAEL & BARBARA FEARING – 6 TWELFTH AVENUE, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on July 10, 2006 at 8:00 pm in Meeting Room #1 of the Town Hall, 499 Plymouth Street, Halifax, MA on the application by Michael & Barbara Fearing, 6 Twelfth Ave, Halifax, MA to build a 4 x 8 roof overhang with columns over the existing steps and construct a 2nd story addition to their pre-existing non-conforming home. Said property is owned by Michael & Barbara Fearing as shown on Assessor's Map #51, Lots 67 & 68. The applicant seeks a variance of the front set back from fifty (50) feet to four (4) feet and a special permit to continue & extend a non-conforming use in accordance with the Zoning By-laws under Section(s) 167-11 Table of Dimensional & Density Regulations and 167-8 Non-Conforming Uses, page(s) 16726.11, & 16726.8. Area is zoned residential. Petition #670

Tinkham: What would you like to do?

B Fearing: We bought this house as a starter home and we are at a place where we need to do some repairs to the house and we thought we should add some more space so the boys can have their own bedrooms. We would like to add a roof over the existing steps to help protect me from the rain, etc.

Ms. Fearing reviewed the plans with the Board. She also presented the Board with some pictures of the property.

The Board reviewed the pictures and the plans. The Fearing's are staying within the same footprint and only need a variance in order to cover the pre-existing exterior steps.

Tinkham: So what exactly are we doing here?

B Fearing: Upstairs we are adding 3 bedrooms and a bath. The downstairs is going to be opened up and the rooms are going to be made larger. Then we would like to add a roof with columns over the pre-existing front stairs.

The Board continued to review the layout of the lot and the plans.

It was duly moved (R. Gaynor) and seconded (K. Nessralla) to waive the on-site inspection.

So VOTED 5-0-0

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It was duly moved (R. Gaynor) and seconded (J. Reilly) to grant your petition (#670) for a special permit to continue and extend a non-conforming use in order to construct a 2nd story addition. The Board also granted a variance of the front set back from fifty (50) feet to four (4) feet in order to build a 4' x 8' roof overhang with columns over the existing steps to your pre-existing non-conforming home at 6 Twelfth Avenue, Halifax, MA as shown on assessor's map 51, lots 67 & 68.

The Zoning Board of Appeals granted this petition due to the fact that this addition will not be detrimental to the neighborhood. Due to the age of the home and the fact that it is pre-existing non-conforming, the Board felt that the roof overhang and the 2nd story addition would not derogate from the intent of the bylaw.

The Zoning Board of Appeals grants this petition with the following conditions:

1. The special permit and variance were granted based on the plans and testimony presented at the hearing. Any changes from what was presented and approved must be brought back before the Zoning Board of Appeals.

Please be advised that all variances and special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (7/18/06) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

Chairman Tinkham called for a voice vote: J. Reilly, YES; K. Nessralla, YES, G. Walsh, YES; R. Gaynor, YES; and D. Tinkham, YES.

The motion to grant petition #670 passed 5-0-0

Ms. Tinkham reprised Mr. and Mrs. Fearing of the procedure following approval of the petition.

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Member, Kozhaya Nessralla recused himself from petition #671 due to the fact that he is an abutter to the property.

#671 – RAYMOND & MAUREEN KINGSTON – 6 TWELFTH AVENUE, HALIFAX

The secretary read the notice of public hearing:

The Halifax Zoning Board of Appeals will hold a public hearing on July 10, 2006 at 8:20 p.m. in Meeting Room 1, Town Hall, 499 Plymouth Street, Halifax, MA on the application by Raymond Kingston to construct a forty (40) foot by forty (40) foot oversized detached garage/barn to be located at 85 Summit St, Halifax, MA. Said property is owned by Raymond & Maureen Kingston as shown on Assessors Map 88, Lot 5. The applicant seeks a special permit to allow the ground floor area to be greater than eight hundred eighty-four (884) square feet and a special permit to allow the ground floor area to be greater than the foundation size of the house in accordance with the Zoning By-laws of the Town of Halifax under Section 167-12F (4 & 4A) Density Regulations for Specific Uses page(s) 16726.15. Area is zoned residential. Petition #671

Tinkham: Would you like to tell us what you are doing.

Kingston: We would like to build a 2 car garage with 3 stall barn. I think the floor plan explains everything. On the front, it will have an open archway. There will be no doors. I will be dealing with horses. Upstairs there will be a loft only. There will be no stairs.

The Board reviewed the plans.

Kingston: The two car garage will hold two antique cars that I have.

Tinkham: What size is the lot?

Kingston: About 51,000.

Tinkham: What are all the other buildings that are on the lot?

Kingston: One is a 2-car garage and the other is a small barn that is there right now. I also have a chicken coop and a shed.

The Board reviewed the layout of the lot.

Gaynor: How big is the existing garage and the other buildings?

Kingston: The existing garage is approximately 27 x 24, the barn is about 16 x 18, the shed is about 6 x 15, and the coop is about 6 x 6.

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Gaynor: How many stalls are in the existing barn?

Kingston: Three.

Gaynor: So you are going to have 6 stalls total.

Kingston: No, I am going to have 3 stalls.

Gaynor: What is going to happen to the existing barn?

Kingston: I am going to demolish that.

Tinkham: You know by saying that you it will have to be demolished.

Kingston: Okay.

The Board continued to review the plans and layout of the lot.

Chairman Tinkham read two letters from Ed Giampeitro into the record. (see file) Mr. Giampeitro is adamantly opposed to the project. He requested that the Board continue the hearing due to the fact that he is not able to attend tonight's public hearing.

Chairman Tinkham recommended that the Board do an on-site inspection.

Gaynor: How many car garages do you have now?

Kingston: Two. The proposed garage will hold two antique cars that I have outside now.

Reilly: How many horses do you have?

Kingston: Three, one horse and two miniature horses. We also have one chicken.

Reilly: Where do you store the manure?

Kingston: On the property.

Gaynor: What will the garden room be used for?

Kingston: We want to make it a plant room for growing plants.

Reilly: The existing barn will be demolished?

Kingston: Yes.

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Walsh: Will this have a cement foundation?

Kingston: It will be a cement slab.

Mr. Kingston presented the Board with computer generated plans of the building. The Board reviewed the pictures and the plans.

Gaynor: Will there be any running water?

Kingston: There will be an outside spigot.

Gaynor: Electricity?

Kingston: Yes.

Gaynor: Heat?

Kingston: No.

Randall Tyler – 126 Walnut St: I would like to know why he needs another garage? There is so much there. I want to know if he is going to be running a boarding business? I am very much opposed to this.

Tinkham: What is the garage used for now?

Kingston: I have one car in there now and I use it for storage.

Tinkham: Is there any business or boarding at all?

Kingston: No. There is no boarding or any other type of livestock business.

Tinkham: Are you a landscaper by trade?

Kingston: No.

The Board reviewed with the audience that businesses are not allowed in agricultural/residential zones and are subject to fines.

The Board also discussed putting a stipulation on the special permit (if it were to pass) that the garage/barn be used for personal use only – no commercial use. Mr. Kingston agreed.

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Walsh: How do you store the waste?

Gaynor: Is there a slab there now?

Kingston: No, it is in the back on a trailer. When you come out and inspect, you can see where it is.

Gaynor: We may need to look at that.

The Board discussed the location and the storage of the manure.

Tinkham: Are there any other abutters who would like to speak for or against this petition.

No one spoke.

Reilly: Do you plan on having any plumbing in this building at all?

Kingston: There will be a water spigot.

Tinkham: Based on the number of phone calls I have gotten, I would like to do an on-site inspection.

The on-site inspection will be held on August 12, 2006 at 9 am.

The Board will continue the hearing until Monday, August 14, 2006 at 7:30 pm.

The hearing was continued until August 14, 2006 at 7:30 pm.

It was duly moved, seconded and VOTED to adjourn the meeting.

Respectfully submitted,

Melissa Traynor,
Administrative Assistant

It was duly moved, seconded and VOTED to approve the minutes of Monday, July 10, 2006 as presented/corrected.

Debra Tinkham, Chairman
Zoning Board of Appeals
